REMARKS

Claims 24-32 are pending in this application. No amendments to the claims are considered necessary at this time given the results of the telephonic interview with the Examiner on July 25, 2003 with regard to the 35 USC 102(b) rejections of claims based on the Kaleko reference (see section below). During that telephonic interview the Examiner acknowledged that the Kaleko reference does not teach the use of both nucleic acids in the relevant claims as having head-to-head ITRs. Since this is a limitation relevant to all claims in this application, Kaleko does not anticipate these claims.

This response also addresses the 35 USC 112, paragraph 1 rejections of claims 26, 27 and 29 in order to provide a complete response to the Final Office Action mailed June 3, 2003.

Claim Rejections - Double Patenting

As indicated in the Response/Amendments mailed February 11, 2003, to overcome the obviousness-type double patenting rejection, Applicant agrees to provide, upon a notification of allowance of claims, a terminal disclaimer in compliance with 37 CFR 1.321(c). The "conflicting" referenced patent is commonly owned with the present application.

Claim Rejections - 35 USC 102

The Examiner has rejected claims 24, 25, 28, 31 and 32 under 35 USC 102(b) as being anticipated by Kaleko et al. (WO 97/25446) ("Kaleko").

During a telephonic interview conducted July 29, 2003, the Examiner agreed that the Kaleko reference does not teach that both polynucleotides being used in that reference's process have head-to-head ITR configurations. In that this is a feature claims 24, 25, 28, 31 and 32, Kaleko does not anticipate these claims. Accordingly, Applicant respectfully requests withdrawal of this basis for rejection.

The Examiner has indicated that she will conduct another search with regard to the present claims, and prepare an Office action based on that search.

Claim Rejections - 35 USC 112, first paragraph

Claims 26, 27 and 29 stand rejected under 35 USC 112, first paragraph, as containing subject matter not which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant respectfully requests reconsideration of this rejection based on the combination of the teachings in the art, the high level of skill in the art, and the fact that at least some precursor plasmids are currently available commercially from a company known as Microbix Biosystems, Inc. (www.microbix.com). Such precursor plasmids contain components needed to make the plasmids illustrated in the figures, including pDC111-118. In particular, such commercially available plasmids contain Ad ITR junctions and other Ad sequences (such as the packaging signal), and there are plasmids offered for sale that contain MCMV and HCMV promoters.

A price list from the web site of Microbix Biosystems, Inc. is provided as an attachment. The first kit listed, named Kit A, product number PD-01-60, contains the precursor plasmids pΔ1sp1A and pΔ1sp1B. These are shown as the starting plasmids in Figure 5A, and clear instructions are provided in each step shown in Figure 5A to obtain the plasmids shown there that are derived from pΔ1sp1A and pΔ1sp1B. The plasmids in Figure 5A, including pΔ1sp1A and pΔ1sp1B, are then used in standard restriction enzyme reactions to make the plasmids pDC111 to pDC114 as shown in Figure 5C. Similar reactions are shown in Figure 5E, which teaches how to obtain pDC115-pDC118.

Thus, reconsideration is respectfully requested. It is further noted that Applicant is willing to consider canceling these claims if this rejection is not overcome, in order to pursue to issue other claims in this application.

* * * * * * *

All claims having either been placed in condition for allowance or cancelled, expedited passage of this case to issuance is respectfully solicited.

Applicant requests that the Examiner call the undersigned, at 888-416-1464, if clarification is needed on any aspect of this response, or if the Examiner believes that any valid basis of non-patentability remains after entrance and consideration of the remarks and amendments presented herein.

Respectfully submitted,

2/6/2008

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Products

Price List: Adenovirus Vector Kits and 293 Cells

Adenovirus Vector Creation Kits

- All adenovirus reagents must be ordered in complete kits unless I separately.
- Plasmids are packaged at 10 micrograms per vial.

Product #	Name	Kit Contents
PD-01-60	Kit A	pΔE1sp1A, pΔE1sp1B, pFG140 and pJM17
PD-01-61	Kit B	pAB26, pAB27, pFG140 and pFG173
PD-01-62	Kit C	pΔE1sp1A, pΔE1sp1B, pXC1, pABS.4, pFG140, pBHG10, pBHG11 and pBHGE3
PD-01-64*	AdMax™ Kit D	pDC311, pDC312, pDC315, pDC316, pBHGlox_E1,3Cre, and pFG140
PD-01-65	AdMax™ Kit E	pDC511, pDC512, pDC515 and pDC516, pBHGfrtΔE1,3FLP, and pFG140
PD-01-67	AdMax™ Kit F	pDC411, pDC412, pDC415, pDC416, pBHG10, pBHGE3 and pFG140
PD-01-66	AdCre Kit G	AdCre1, AdCreM1, AdfloxLacZ1 and Adfloxluc
PD-01-68**	AdMax™ HI-IQ Kit H	pDC315(io), pDC316(io), pBHGlox ΔE1,3Cre, pFG140, 293IQ Cells
PD-01-69**	AdMax™ HI-IQ Kit J	pDC515(lo), pDC516(io), pBHGfrt ΔE1,3FLP, pFG140, 293IQ Cells
PD-01-70	Helper Dependent Adenovirus Vector Kit K	293Cre4 cells, Adeno helper virus H14, pC4HSUgfp, pC4HSU

*Rights to the cre recombinase and lox sites contained in Kit D are owne Myers Squibb. To purchase Kit D, your company or institution must have with BMS permitting you to use this system. Your Technology Transfer O able to tell you if you have a valid license for this technology. Please cont if you have any questions.

**AdMax™ Hi-IQ Kits H and J are available to current AdMax™ users for price. Please contact Microbix for details.

Indivdual Vectors

Product#	Name

PD-01-01	pΔE1sp1A
PD-01-02	pΔE1sp1B
PD-01-03	pXC1
PD-01-04	PABS.4
PD-01-05	pFG140
PD-01-06	pJM17
PD-01-07	pAB26
PD-01-08	pAB27
PD-01-09	pFG173
PD-01-10	PBHG10
PD-01-11	PBHG11
PD-01-12	PBHGE3
PD-01-19	PBHG9
PD-01-13	pCA3
PD-01-14	pCA4
PD-01-15	pCA13
PD-01-16	pCA14
PD-01-17	pCA17
PD-01-18	pCA18
PD-01-20	PHCMVsp1LacZ
PD-01-21	pMH4
PD-01-22	pMH5
PD-01-41	pMH5(I)
PD-01-29	pDC411
PD-01-30	pDC412
PD-01-31	pDC415
PD-01-32	pDC416
PD-01-42	AdCre1
PD-01-43	AdCreM1
PD-01-44	AdfloxLacZ1
PD-01-45	Adfloxluc

Permissive Cell Lines

Product#	**Name**
PD-02-01	293 Low Passage Cells
PD-02-02	293 N3S Suspension Cells
PD-02-03	293 E4pIX Cells
PD-02-05	NautCell™

Print the product list